



## 2013 LOCAL OFFICIALS DAY COMMITTEE HEARING ROLE-PLAY

ULCT will host a mock committee hearing for youth councils at the State Capitol at 8:00 a.m. on January 30. The meetings will show the legislative process and empower them to debate a relevant topic. The mock state committee will debate HB 3431 (Anti-bullying Amendments). Several legislators will visit the hearings and interact with the youth councils, including the sponsor of Utah's anti-bullying legislation.

We need your participation to make the role-play successful. The details of the legislation & procedures are below. If any members of your youth council would like to serve on the youth legislative committee or as potential witnesses, please let Cameron Diehl know **ASAP** at 801-328-1601 or [cdiehl@ulct.org](mailto:cdiehl@ulct.org). The roles will be filled on a first come, first served basis. If your youth council does not volunteer in advance, please have them prepare comments to present during the "public input" section of the meetings.

### MOCK STATE COMMITTEE HEARING PROCEDURE

We usually have 600 youth council members that attend Local Officials Day. We will divide the group into 3 sections of 200 youth council members who will be assigned to a committee room for the mock hearing. Each mock hearing will focus on the same bullying legislation. The youth committee will sit at the committee tables while the rest of the youth will sit in the audience. This year's bill is actually a compilation of five proposed amendments to Utah's current bullying laws. The youth will debate each amendment and the volunteer committee members will vote on them. We need approximately 50 youth council volunteers (15-17 per hearing) to successfully execute the role-play. **PLEASE VOLUNTEER!**

- ULCT staff explains the process: 3-5 minutes
- Committee chairperson (youth council volunteer) calls meeting to order, explains procedure, sets time limits on speakers: 3 minutes
- Each committee member is responsible for presenting an amendment
- Prepared testimony in support of each amendment: 5-7 minutes
  - Amendment sponsor speaks for 2-3 minutes on bill
  - Each additional prepared supporter of the amendment takes 2-3 minutes to testify
- Prepared testimony in opposition to each amendment: 5-7 minutes
  - Each opponent of the amendment speaks for 2-3 minutes
- 15 minutes for committee debate on each amendment with "public input" from the audience
- Committee will vote on the amendment (each committee member may explain his/her vote) and move on to the next amendment
- End of meeting: committee chair explains to public which amendments passed

### HB 3431: ANTI-BULLYING AMENDMENTS

#### **CURRENT UTAH EDUCATION CODE: §53A-11a-102. Definitions.**

(1) (a) "Bullying" means intentionally or knowingly committing an act--regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in the conduct--that:

(i) (A) endangers the physical health or safety of a school employee or student;

(B) involves any brutality of a physical nature such as whipping, beating, branding, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(E) involves obstructing a school employee's or student's freedom to move in order to cause fear

(2) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten a person, regardless of whether the person acquiesced.

**PROPOSED AMENDMENT 1, Add §53A-11a-102A**

*(1) "Bullying" means any intentional electronic, written, verbal, or physical act that:*

- (a) Physically harms a student or damages the student's property; or*
- (b) Has the effect of substantially interfering with a student's education; or*
- (c) Is so severe or persistent that it creates an intimidating or threatening educational environment; or*
- (d) Has the effect of substantially disrupting the orderly operation of the school.*

PRO: clarifies that verbal/written act, interfering with student's education or disrupts school are bullying

CON: current law is sufficient, should not legislate bullying unless it rises to physical brutality

**PROPOSED AMENDMENT 2 Add §53A-11a-102B Malicious bullying**

*(1) "Malicious bullying" means maliciously or intentionally committing one of the following acts because of his/her perception of the victim's religion, race, color, national origin, gender, sexual orientation, or mental, physical, or sensory handicap:*

- (a) Causes physical or emotional injury to the victim or causes damage to the victim's property*
- (b) Threatens a specific person that places that person in reasonable fear of harm*
- (c) The fear must be a fear that a reasonable person who is a member of the group listed in (1) would have under all the circumstances.*

*(2) Words alone are not malicious bullying unless the context makes the words a sufficient threat.*

PRO: many victims bullied because of certain traits, so bullying one person threatens the entire group

CON: should not treat bullies and victims differently because of certain characteristics

**CURRENT UTAH EDUCATION CODE: §53A-11a-201. Bullying, cyber-bullying, & harassment prohibited.**

(1) No school employee or student may engage in bullying or harassing a school employee or student:

(a) on school property; (b) at a school related or sponsored event; (c) on a school bus; (d) while the school employee or student is traveling to or from a school location or school event

(2) No school employee or student may engage in cyber-bullying a school employee or student at any time or in any location.

**PROPOSED AMENDMENT 3:**

*(3) "Schools may punish a perpetrator regardless of if the cyber-bullying ever occurs at school"*

PRO: cyber-bullying off-campus has detrimental impact on school community and victim on-campus

CON: excessive school control of student free speech; let parents be responsible for home internet use

**CURRENT UTAH EDUCATION CODE: §53A-11-904. Grounds for suspension/expulsion from public school**

(1)(a) A student **may** be suspended or expelled from a public school for any of the following reasons:

(i) frequent willful disobedience, defiance of authority, disruptive behavior, including the use of foul or abusive language;

(ii) behavior or threatened behavior which poses an immediate & significant threat to welfare, safety, or morals of other students or school personnel or to operation of school;

(2) (a) A student **shall** be suspended or expelled from a public school for:

(i) Possession of or threatened use of a real weapon or explosive

(ii) Sale or distribution of drugs

**PROPOSED AMENDMENT 4: add (2)(iii) "Bullying, upon proper finding of bullying"**

PRO: Bullying must have consequences and legal deterrent

CON: Schools should not be required by the state to expel bullies, this penalty is excessive

## **CURRENT CRIMINAL CODE: §76-9-201. Electronic communication harassment**

(1) "Electronic communication" means any communication of audio, image, or text by an electronic communication device such as a phone, facsimile, e-mail, or pager

(2) A person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if--with intent to annoy, intimidate, offend, abuse, threaten, harass, or frighten—the person:

- (a) makes repeated contact via electronic communication and insults or taunts the recipient,
- (b) threatens to inflict injury, physical harm, or damage to any person or the property of any person.

(3) Electronic communication harassment done against an adult is a class B misdemeanor

(4) Electronic communication harassment committed against a minor (below age 18) is a class A misdemeanor (punishment of up to \$2500 & up to 1 year in jail), and each subsequent offense is a 3<sup>rd</sup> degree felony (punishment of up to \$5000 and 0-5 years in prison)

## **PROPOSED AMENDMENT 5: BULLYING, CYBER BULLYING, & MALICIOUS BULLYING IN CRIMINAL CODE**

### **§76-9-201A Bullying**

*(1) A person is guilty of **cyber-bullying** if he/she uses the internet, cell phone, or other device to repeatedly send/post a text, video, or image with intent, knowledge, or reckless disregard that it will hurt, embarrass, or threaten a reasonable person regardless of whether it was posted **anonymously***

*(2) A person found guilty of bullying, cyber-bullying or malicious bullying, per the earlier definitions, may face criminal charges:*

*(i) If the victim is under **age 16**, then all bullying is a 3<sup>rd</sup> degree felony, with a punishment of up to \$5000 and 0-5 five years in prison*

*(ii) If the victim is age 16 or older, then all bullying is a Class A misdemeanor with a punishment of up to \$2500 and one year in jail*

*PRO: criminal statute allows for prosecution of bullies, including for anonymous cyber-bullying*

*CON: excessive punishment; also opens door for potential school liability*

## **ROLES FOR YOUR YOUTH COUNCIL FOR HB 3431 (we need approximately 50 youth council volunteers for 3 simultaneous committee hearings)**

We need your youth council members to provide the following roles and/or fill the mock committee who must vote on the amendments. We have included suggested arguments below and request that each volunteer elaborate on the arguments and prepare a 2 minute testimony on their topic. Please use Cameron Diehl ([cdiehl@ulct.org](mailto:cdiehl@ulct.org) or 801-328-1601) as a resource. Even if your youth council does not volunteer, please review the amendments and come prepared to speak during the public input session.

**COMMITTEE MEMBERS:** 6-10 volunteers, 5 of which must present amendments (2-3 min)

### **Chairperson of committee:**

- Responsible to conduct the hearing, keep time, and use Roberts Rules of Order
- Manages vote, explains parliamentary procedure and what happens to the bill after the vote

### **Committee members (5-10 volunteers):**

- Listen to debate and must vote on each amendment

### **Amendment 1 sponsor:**

- Language in amendment is more concise, includes language about interfering with a student's education or disrupting school, and includes written and verbal acts specifically

### **Amendment 2 sponsor:**

- This language would build on federal law that bans certain harassment in schools that receive federal funding (FYI: Title IX prohibits sexual harassment, Title VI prohibits racial discrimination, Title II prohibits harassment of people with disabilities)
- Many bullying victims are bullied because of certain characteristics; if you bully one person because of his/her characteristics, it also hurts other people with those characteristics
- Amendment would deter bullies from bullying people with these characteristics

- Reasonable person standard and words alone make high threshold; bad joke would not qualify

**Amendment 3 sponsor:**

- Cyber-bullying affects the school community even if it occurs elsewhere so this amendment provides schools with the authority they need to punish bullies

**Amendment 4 sponsor**

- Bullying must have clear consequences to deter potential bullies that apply to all schools

**Amendment 5 sponsor**

- Creates criminal statute for bullying, cyber-bullying and malicious bullying which adds certain devices and allows for prosecution for anonymous cyber-bullying
- Current electronic harassment insufficient to prosecute all bullies; amendment gives prosecutors more authority over bullies who victimize minors

**NON-COMMITTEE MEMBERS WHO PREPARE TESTIMONY ON AMENDMENTS: 8 volunteers (2-3 min)**

**Amendment 1 supporter (Victim of bullying):**

- Personal story: while I was in 7<sup>th</sup> grade, a group of five 8<sup>th</sup> graders bullied me every day. They taunted me about my clothes, spread nasty rumors at school and online about my personal life, recruited other kids to taunt me, and passed notes & texts about me during class. I hated attending school & often stayed home “sick.” At school, I avoided everyone & had poor grades.

**Amendment 1 opponent (Libertarian):**

- No need to legislate bullying unless it includes physical brutality (ie. hazing), should let kids be kids and toughen up
- Real problem with bullying is the breakdown of the traditional family
- Should the state really legislate teenager relationships? Leave it to families or individual schools

**Amendment 2 supporter (Parent of victim of bullying):**

- Personal story: my son was bullied because we come from a different country and belong to a different religion. People taunted him for how he worshipped and left him cruel notes at his locker every day. His sister and friend, of the same religion and background, were scared that the bullies would target them next for the same reasons. Once, he found a rope with his name on it that said “we are going to get you and then everyone else like you!” After one really bad day, he came home and tried to commit suicide.

**Amendment 2 opponent (Lawyer):**

- Bullying is bullying, should not distinguish between certain victims or certain bullies
- Why only these characteristics? Only 17 states have such “protected classes” so let’s research how these laws have worked in those states first

**Amendment 3 supporter (School principal):**

- State supreme court upheld a suspension of a kid who made a website that declared he would kill a teacher because the school said that it had a negative effect at the school (*Bethlehem* case)
- US Supreme Court has said that schools can restrict 1<sup>st</sup> Amendment speech rights of students when it interferes with school environment (*Tinker* case)

**Amendment 3 opponent (Youth advocate)**

- Excessive school control over free speech, see Emmett (SD overreacted to student webpage)

**Amendment 4 opponent (Local school board member)**

- Punishment is excessive; still unsure what bullying is, and now we are expelling kids for it?
- The heavy hand of the state is dictating to education professionals and school community how to react to bullying. At worst, it should be a “may” and left to local school boards to decide

**Amendment 5 opponent (Youth advocate in judicial system):**

- Using the criminal code creates excessive punishment for teenagers
- What about potential accomplice liability? (teachers/classmates who know about the bullying but don’t take sufficient action)